**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF NEW YORK**

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:
SAMANTHA SOMAI, infant, by          :
CHRISTINA RIVERA, as mother and     :
natural guardian, and CHRISTINA     :
RIVERA, individually,               :
:
              Plaintiffs,           :
:
        -v-                         :
:
MORRIS HEIGHTS HEALTH CENTER,       :
INC., d/b/a MORRIS HEIGHTS HEALTH   :
CENTER, and WANDA McCOY, M.D.,      :
:
              Defendants.           :
:
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08 CV 3151 (BSJ)(FM)

**ORDER**

By motion dated April 4, 2008, the United States moved to substitute itself as Defendant in place of Defendants Morris Heights Health Center and Wanda McCoy, M.D., and to dismiss the complaint as against the United States for lack of subject matter jurisdiction.  On June 12, 2008, Magistrate Judge Maas issued a Report and Recommendation ("R&R") recommending that this Court grant the motion in its entirety.  In the R&R, Judge Maas directed the parties that "if they have objections to this Report and Recommendation, they must, within ten days from today, make them in writing, file them with the Clerk of the Court, and send copies to [this Court] and [Judge Maas]." Plaintiffs have failed to file objections to the R&R.

In reviewing a magistrate judge's report and recommendation, the Court may adopt those portions of the report to which no objections have been made and which are not clearly erroneous.  Fed. R. Civ. P. 72(b); Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985); see also Ramos v. Superintendent of Clinton Correctional Facility, No. 03 Civ. 1920, 2007 WL 1946575, at *1 (S.D.N.Y. July 2, 2007).  Based on the Court's review of the R&R, it finds the recommendations to be neither clearly erroneous nor contrary to law, and thus adopts the R&R in its entirety.

Accordingly, the Court GRANTS the United States's motion to substitute itself as Defendant, and to dismiss the complaint for lack of subject matter jurisdiction.  The Clerk of Court is directed to close this case.


**SO ORDERED:**

BARBARA S. JONES
/ **UNITED STATES DISTRICT JUDGE**


Dated:    New York, New York
          September 3, 2008